Becoming Free

Gill, Emily R.

Published by University Press of Kansas

Gill, Emily R.
Becoming Free: Autonomy and Diversity in the Liberal Polity.

For additional information about this book
https://muse.jhu.edu/book/81023

For content related to this chapter
https://muse.jhu.edu/related_content?type=book&id=2765773
3. Cultural Particularism in the Liberal Polity

We have seen that a bounded national community is required even for a liberal polity if its members are to possess a forum within which to construct and express shared values, projects, and goals, both collectively and individually. A national community, however, is seldom monolithic. In a liberal national entity, as Yael Tamir suggests, “its political system will reflect a particular national culture, but its citizens will be free to practice different cultures and follow a variety of life-plans and conceptions of the good.” I have argued that any state is necessarily based on some set of determinate principles and commitments; hence, legal neutrality among all possible conceptions of the good is impossible. I now advance the parallel argument that any state reflects a particular culture or cultural mixture; hence, the background conditions against which individuals and groups interact cannot reflect cultural neutrality. The question, then, is how we address the concerns of individuals and groups that do not share the dominant cultural background.

Because even liberal states typically contain implicit cultural norms, some practices will always fall outside these, although different liberal states will draw the boundaries in different places. As Deborah Fitzmaurice notes, “Even the minimal nightwatchman state proscribes lives of overt theft and violence.” But even if we accept some minimum as a matter of course and identify neutrality with a rejection of the superiority of particular conceptions of the good, neutrality is not self-explanatory. It may be understood either to permit a wide range of modes of life or, alternatively, to mandate the protection of “vulnerable modes of life from the erosive effects of public institutional arrangements” (5). In the first instance, ways of life that are permitted are tolerated as a matter of public policy, by default. In the second instance, ways of life for which protection is mandated are grounded in some decision as to which ways of life merit special protection if they are to exist on an equal footing with others. In both instances, decisions made in the public realm determine the scope of toleration or protection, which produces a tension well expressed by Maeve Cooke. “All proposals for structuring public life express some vision of human
flourishing and human excellence, even when they explicitly strive not to do so. As such they inevitably exclude those who do not share the dominant vision." Rather than focusing solely on the process of exclusion, however, we should also attend to the fact that some vision of human flourishing or human excellence is inevitable, trying to structure this vision in accordance with what we ourselves may believe about the conditions for flourishing or for excellence.

I have described the liberal polity as committed both to the background conditions for individual autonomy and self-development and to a culture of diversity containing a plurality of options. As we have seen, autonomy requires that we each develop the capacity to live our lives from the inside, and to question, examine, and revise our projects and goals. Cultural membership as a set of particular allegiances and commitments may function either to enhance or to inhibit this capacity. And if diversity requires a range of possibilities and the ability to envision what these possibilities entail, the existence of both a variety of cultural options and a variety of types of cultural affiliation will broaden this range. Attention to cultural particularism, then, is crucial to a focus on conditions for the development of the capacity for autonomy.

I shall outline the case for the value of cultural membership to the individual, particularly as this membership functions as a contribution to or an expression of individual autonomy. Then I shall examine the case for group-differentiated rights for members of national cultures who are effectively national minorities within a liberal nation-state. Although this contingency is the exception in the United States, my discussion is motivated by the way divergent responses to separatist versions of cultural membership illuminate the tension between autonomy and diversity when the latter is magnified. Some theorists would accord external protections against the larger society to the cultural structure of national minorities through group-differentiated rights. Others eschew external protections but would protect cultural content supporting the authority of cultural leaders to enforce traditional practices as a condition of membership. Some would accord legal protections and exemptions to individuals purely on the basis of minority status, and others would accord some internal autonomy to cultural communities without equating them with private associations. Each of these viewpoints is implicitly grounded on particular assumptions about the extent to which cultural membership is or is not a matter of choice. I maintain that although membership in some culture is a precondition of human agency, membership in any particular culture for mature adults is not a precondition of autonomy but should instead be regarded as an expression of it. The liberal polity should ensure the existence of a context of choice, maximizing the probability that cultural
membership will indeed proceed from critical reflection and thus function as an expression of autonomy.

Cultural Membership

Even casual acquaintance with world events in the 1990s demonstrates the fact that individuals and groups are not assimilating into a common culture, despite the reciprocal interdependence supposedly promoted by global networks of information and transportation. Instead, individuals and groups are asserting or reasserting their particularist identities, be these ethnic, religious, cultural, or national. When diversity exists within a political entity, the thesis of the politics of multiculturalism, writes Charles Taylor, “is that our identity is partly shaped by recognition or its absence. . . . Non-recognition or misrecognition can inflict harm, can be a form of oppression, imprisoning someone in a false, distorted, and reduced mode of being.”4 The genesis of the human mind and of human agency is through interaction and interchange with others, giving human life “its fundamentally dialogical character” (32). That is, one’s identity is defined and worked out in dialogue with others, even when the dialogue is hypothetical and internal. Individuality is developed, then, within a particular framework. For example, Tamir’s concept of the contextual individual “portrays an autonomous person who can reflect on, evaluate, and choose his conception of the good, his ends, and his cultural and national affiliations, but is capable of such choices because he is situated in a particular social and cultural environment that offers him evaluative criteria.”5

Too often, however, these evaluative criteria have been interpreted to minimize or suppress differences among individuals and groups. One major strain in modern liberal theory has premised the individual’s civic identity as a free and equal individual on the dissolution of one’s particularistic, cultural, or communitarian identity, when in reality civic culture “presupposes and remains dependent upon communitarian culture” and the particularistic building blocks that communitarian culture provides.4 In this regard, I agree with Will Kymlicka and Tamir. For Kymlicka, cultural membership is a primary good, and its recognition contributes to and expands individual choice. “Cultural membership is not a means used in the pursuit of one’s ends. It is rather the context within which we choose our ends, and come to see their value, and this is a precondition of self-respect, of the sense that one’s ends are worth pursuing.”7 For Tamir, because the contextual individual is both a situated and a choosing self, “culture can be a precondition of reflective thinking and the exercise of choice, while in itself remaining an object of choice.”8
Cultural particularism appears desirable in two respects. First, without a plurality of cultures, individuals cannot make choices among cultures. One's cultural context not only denotes a primary communal membership from within which one develops one's moral identity, but it also may provide a culturally plural environment from within which one may make cultural choices. Thus cultural pluralism benefits the members of or participants in given cultural groups, those who may borrow from or even assimilate into a particular culture from outside, and, finally, everyone else "for whom the existence of any culture enriches their own experience of what it means to be human" (32). Beyond its instrumental value, cultural pluralism's second claim to desirability lies in its intrinsic value. I believe that cultural communities as well as nations meet Tamir's test in which "recognition of fellow members, the drawing of boundaries between members and nonmembers . . . becomes a product of human imagination, contingent on the belief that there are similarities among members" (68). That is, feelings of similarity provide a sense of belonging. Although the right to adhere to a particular culture is an individual right and interest, culture also functions as a space for the expression of one's communal identity (42–48) with its special ties and obligations. Particularistic ties, once again, are not parochial attachments to be transcended in the course of individual moral development but fulfill a need that is part of the human condition.

I agree with Kymlicka that cultural membership functions as a primary good in the same way as self-respect. Both are preconditions of living good lives as we decide what has value in our lives, or as we question, examine, and possibly revise our projects and goals. Our cultural heritage determines the range of our options, and thus it functions as a precondition for lives that have meaning for us. Although particular cultural structures do not have moral status of their own, "it's only through having a rich and secure cultural structure that people can become aware, in a vivid way, of the options available to them, and intelligently examine their value." Our cultural heritage provides a context in or background against which we may consider various life plans, projects, and goals. This heritage appears to play two roles. First, in James Nickel's words, it provides a range of choices that ground autonomy. Second, it provides a means through which people test and confirm the value of choices they make. For Kymlicka our beliefs about value depend upon the amalgam of values that constitute the cultural context. Our values, like our identities, are formed dialogically. We cannot evaluate their worth in isolation, but we require the presence and reactions of others. These form a mirror that reflects and clarifies our values and their worth. For scholars like Tamir and Kymlicka, it is cultural heritage specifically that provides the mirror.
Kymlicka’s focus is two sorts of cultural diversity. National minorities denote “previously self-governing, territorially concentrated cultures” now incorporated into a larger, multination state. These national minorities often demand some type of self-government to ensure the cultural survival of their distinct societies. Ethnic groups denote loose associations of individuals and families who immigrated into and now want to become full members of the larger society, now a polyethnic state. Although they may seek recognition of their identity, they desire mainstream accommodation of their cultural differences, not separation. His argument for group-differentiated citizenship with group-differentiated rights is grounded on the distinction between the unchosen incorporation of minority nations and the voluntary status of immigrants. The former have legitimate claims to self-government that the latter do not, although members of ethnic groups may properly claim polyethnic rights to various measures and exemptions that facilitate the expression of cultural particularity within the institutions of the dominant culture (see chapter 4).

The purpose of self-government rights is to protect the cultural autonomy of the societal culture, one “which provides its members with meaningful ways of life across the full range of human activities, including social, educational, religious, recreational, and economic life, encompassing both public and private spheres,” typically concentrated geographically and using one language (76). Because cultural membership provides a context of choice, including both “a range of meaningful options” (83) and “a secure sense of identity and belonging” (105), access to one’s culture is an entitlement that we should expect people to desire (86). Although individuals may integrate themselves into cultures other than their original ones, the difficulty of this enterprise suggests that if undertaken, this should be a matter of choice, not necessity. However, Kymlicka attends not only to the autonomy of national minorities collectively but also to that of their individual members. That is, he endorses external protections for societal cultures that promote their integrity within the larger national community, but he rejects internal restrictions, “which limit the right of group members to question and revise traditional authorities and practices” (37). He believes that freedom of choice requires cultural preconditions like the right to cultural membership but that we should not structure preconditions in ways that hamper subsequent choices.

Specifically, although we are “dependent on a cultural community for our self-development and for our context of choice,” we may rightly claim independence, “as self-directed beings, from any of the specific roles and relationships that exist in the community.” On the one hand, cultural membership should not disadvantage individuals as a result of unchosen constituents of...
their identities. Thus for some, “Special political rights are needed to remove inequalities in the context of choice which arise before people even make their choices” (190). On the other hand, recognition of a cultural structure should not be used for the preservation of any particular cultural character. Although some theorists defend cultural membership as a primary good in order “to protect their particular preferred vision” of communal character (168), on Kymlicka’s view “the cultural community continues to exist even when its members are free to modify the character of the culture, should they find its traditional ways of life no longer worth while” (167). The enforced maintenance of a particular cultural character would limit rather than protect the future choices of the culture’s members, and “liberals are committed to supporting the rights of individuals to decide for themselves which aspects of their cultural heritage are worth passing on.”15 Although outside interference causing the disappearance of a culture despite its members’ choices violates their right to cultural membership, its alteration or disappearance because of its members’ choices to incorporate, for instance, aspects of the outside world does not.

Moreover, the same liberal defense of autonomy that upholds the right to cultural membership against the larger society also justifies the claims of the individual against traditional authorities and practices within a minority culture.16 In both cases, individuals have rights against the group, or groups have rights against the nation-state, that ensure both that they can lead lives from the inside, in accordance with their own beliefs about value, and that they can form those values by questioning, examining, and possibly revising their current beliefs about value. Cultural membership functions as a primary good for Kymlicka, we can infer, not simply intrinsically but because we expect it to expand rather than to limit freedom. Although we are partly constituted by prior attachments and experiences as we make judgments about the good life for us, “no particular cultural practice has authority that is beyond individual judgment and possible rejection. . . . Nothing is ‘set for us,’ nothing is authoritative before our judgment of its value.”17 In each case, either the individual or the cultural collectivity must endorse a particular authority or practice if the values it expresses are to be judged as contributing to a life that is good for the individuals involved.

The desire to avoid the imposition of seemingly reasonable values on those who cannot identify with them is the major impetus behind both self-government rights for members of national minorities and polyethnic rights for members of ethnic groups who wish to maintain a degree of cultural particularity in the face of the dominant culture. According to Amélie Rorty, the arguments of theorists like Taylor and, indirectly, Tamir suggest that “the claim to the
right of cultural survival and of cultural self-determination... appears to derive from the right accorded to citizens of a liberal state actively to pursue their conceptions of a good life. If the state legitimately promotes the self-defining activities of individuals—centrally, for instance, assuring their basic education—it is also charged with promoting the self-defining activities of its constitutive cultural groups." The issue is not one of choosing between a nonexistent cultural neutrality and an accommodation of cultural differences but one of how the inevitable cultural differences should be handled. I shall summarize three other accounts of cultural membership that differ from Kymlicka's in important particulars, and these four accounts will then function as a basis for a consideration of the ways in which recognition of cultural membership may provide both a variety of cultural options and background conditions for development of the capacity for autonomy.

Cultural membership is a central concern for Chandran Kukathas, but for him it is the right of association, not the right of a cultural community, that is fundamental. Although the right of association is an individual right, nevertheless "it gives considerable power to the group, denying others the right to intervene in its practices—whether in the name of liberalism or any other moral ideal." By privileging individual autonomy over cultural integrity in cultural structures where autonomy and critical reflection are not valued, for instance, Kymlicka in Kukathas's view undermines the very cultural rights he purports to defend. Since those disenchanted with the cultural character of a community may leave, "what matters most when assessing whether a way of life is legitimate is whether the individuals taking part in it are prepared to acquiesce in it" (124). Although Kymlicka's liberalism is compatible with minority rights, it does not in Kymlicka's view justify the rights of a culture against its own members. Kukathas suggests, by contrast, that if the social unions or groups that compose a liberal society are to maintain their integrity, they "must to some extent be impervious to the values of the wider liberal society." Overall, where Kymlicka's liberal society champions the substantive values of equality and individual autonomy, Kukathas defends one in which different ways of life can coexist even if some of those ways of life do not value equality and autonomy. Kymlicka defends cultural membership through the protection of cultural structure, rather than content or practice; but Kukathas defends it by protecting its members' right to adhere to practices without the formal recognition of cultural structure.

A key variable in this dispute lies in the fact that where Kukathas perceives cultural membership as chosen by its adherents, Kymlicka does not—or at least not initially. For Kymlicka, "A liberal needs to know whether a request
for special rights or resources is grounded in differential choices or unequal circumstances.” In the case of native cultures, cultural minorities “have to spend their resources on securing the cultural membership which makes sense of their lives, something which nonaboriginal people get for free.” If cultural membership is a background condition or context of choice that necessarily grounds subsequent choices, individuals whose cultural context is disrupted are disadvantaged in a morally arbitrary way on the basis of unchosen constituents of their identities. Although rights attached to cultural membership can strengthen cultural ties and identities, this effort to respond to differences, however, “may turn into a process of reification, leading to a false imputation of essentialist qualities to the members of some group, ignoring important variations within groups.” Essentialist or totalizing claims, then, may be made not only at the expense of groups within the whole but also at the expense of individuals within a particular group.

We may avoid this sort of essentialism in an approach like Tamir’s, according to which “respect is due to cultural preferences not by virtue of their intrinsic contents, but because they reflect autonomous choices.” Each of us is born with a particularistic identity, but this does not preclude our moving beyond these identities. “We can reflect on them critically and exercise choices regarding our future commitments and affiliations. . . . Furthermore, not only should individuals have a right to choose the . . . group they wish to belong to, but they should also have the right to define the meanings attached to this membership, that is, they should be the ones to decide on the cultural practices they wish to adopt, and on the ways of expressing them.” Because affirming one’s identity with one’s native culture and choosing a different cultural identity are equally matters of choice, both options should be subsidized, as it were, by according special rights if identity with one’s chosen culture results in unequal circumstances compared with membership in other cultures. “Membership in a cultural community is a matter of personal choice, but this does not imply that members have chosen to be a minority” (41–42). Moreover, once cultural membership is recognized, Tamir holds that individuals should interpret for themselves the meanings of their cultural identities, whether they choose their cultural memberships or affirm their original ones.

Although Tamir and Kymlicka diverge in their views of the extent to which the affirmation of unchosen constituents of identity is a matter of choice, both avoid essentialist or totalizing claims through their belief that members of a cultural community should be free to modify its character or to define for themselves the meaning of their membership, to become, in the words of Jeff Spinner, “self-interpreting.” Yet Spinner, like Kukathas, disagrees with Kym-
licka "that liberal rights transcend cultures." Because he supports the preservation of a meaningful context of individual choice, Kymlicka’s focus on cultural structure over content or practice buttresses individual choice both in maintaining and in changing a culture. But the net effect for Spinner is that "Kymlicka allows his liberalism to run amuck, destroying the very cultures he wants to protect. . . . In other words, the liberal state should protect minority cultures in its midst—as long as they are liberal!" (96). If community members who would reinterpret the practices of the Old Order Amish may do so, for example, while remaining in the Amish community, the resulting dilution of cultural homogeneity may cause these communities to disappear, actually allowing for far less diversity among distinctive cultures. “This shows a paradox of liberal theory; liberalism allows people to reject liberal values. The liberal state cannot insist that its citizens embrace liberalism. Liberalism allows people to think for themselves, to make their own decisions—or even to decide not to think for themselves” (97).

On the other hand, Spinner disagrees with Kukathas that a cultural community is purely a private association and that as such it must therefore possess a high degree of internal autonomy. First, cultures change over time; a particular interpretation of cultural identity should not be permanently entrenched. “Second, not all cultural practices should be protected simply because they are someone’s cultural practices. Illiberal practices should not be protected” (135–136). Finally, cultural diversity can coexist with the economic subordination of some groups to others; celebration of the former should not eclipse the presence of the latter. Spinner’s model of what he calls pluralistic integration appears as a compromise between Kymlicka’s willingness to dilute cultural content or practices, on the one hand, and Kukathas’s willingness to equate cultural communities with private associations, on the other. We may infer not only that cultural identity is not merely a private affair but also that the degree to which it is private is publicly determined and is therefore a public concern. By discouraging or forbidding illiberal practices and by emphasizing specific practices rather than cultures, “pluralistic integration rejects the idea that cultures are somehow sacrosanct and need to be protected at all costs” (76).

But if Spinner’s distinction constitutes a compromise, how much room is there really for cultures that want to remain distinctive? If no society is truly culturally neutral, correspondingly no culture can celebrate or even tolerate all practices, not even the civic culture of liberalism. Although a focus on cultural practices rather than on structure may legitimate a greater number of practices, the larger community decides on the legitimacy of given practices, thus still controlling the content of cultural identity by extending or withdrawing its
protection. Thus the right to a cultural context involves not only a cultural claim but also a political one, a facet of cultural identity not always recognized by its defenders. Another way of putting this is that the liberal polity itself is the legal expression of a particular cultural structure. On this view, the liberal polity is a voluntary association with substantive purposes. It is “not merely . . . a gathering of individuals striving to improve their lot, but rather . . . a community struggling to preserve its distinctive character.” The question is how this distinctive character may be expressed in both its commonalities and its diversities. In my view, particularistic cultural membership has value when it expresses and enhances the critical reflection that is the hallmark of individual autonomy. It does not have value when it hinders this autonomy.

Minority Cultures

Let us now examine the case for group-differentiated rights for members of national cultures who are effectively national minorities within a liberal nation-state. For Kymlicka, our original cultural situation is an unchosen constituent of our identity. If it is the culture of a national minority, it should therefore be accorded the protection that only special legal status affords against the encroachment of the dominant culture. Kukathas and Tamir, however, both imply that membership is always chosen. But where Kukathas would support membership as acquiescence in a way of life simply by honoring freedom of association, Tamir would accord legal protections and exemptions to cultural minorities because they are minorities, however members came by that status. For Kukathas, because the affirmation of our birth culture and our choice of affiliation with a different culture are equally matters of choice, no reason exists to facilitate one choice over the other. For Tamir, on the other hand, either choice may afford us minority status, and it is this minority status in the face of the dominant culture that requires compensation, rather than the fact that we may adhere to an unchosen status. For Spinner, by contrast, culture may or may not be chosen by its adherents, but the practices of a culture are chosen, implicitly, by the individuals who are its members. Although he is unwilling to dilute cultural content or practices incompatible with liberalism to the extent that Kymlicka is, neither does he join Kukathas in equating cultural communities with strictly private associations. If the liberal polity is itself the legal expression of a particular cultural structure that it must often struggle to preserve, as I have suggested, the values of subcultures like national minorities and other ethnic groups will often diverge from the values instantiated by the national political community. This confluence of developments in turn in-
creases the possibility that various individuals or groups will experience the impact of the larger society’s values as a form of imposition.

If cultural membership provides a context of choice, providing both a range of options and a source of beliefs about value, as Kymlicka asserts, it implicitly functions as a precondition of the development of the capacity for autonomy, which in turn enables us to question, examine, and revise or reaffirm our current projects and goals. If this membership is a precondition rather than an object of autonomy, however, it is in some sense a given and not itself subject to critical reflection and possible revision. Because Kymlicka would grant greater protection to the cultural distinctiveness of individuals maintaining their allegiance to their culture of origin than to those who have exercised their autonomy to revise their cultural commitments, his position is ironic. As Geoffrey Brahm Levey writes, “Those groups whose cultural rights Kymlicka’s theory was originally designed to defend—namely, indigenous groups—tend to be among the nonliberal groups whose self-government rights require some other defense than his autonomy-based theory.” That is, Kymlicka implicitly justifies cultural membership by its contribution to the capacity for autonomy but simultaneously suggests that the groups for whom a defense of cultural membership is most crucial are those least likely to emphasize the development of this capacity. Because nonliberal groups generally do not value autonomy, for such groups cultural membership cannot be its precondition.

Levey, however, would reverse the relationship between cultural membership and autonomy and interpret cultural membership as the expression of autonomy rather than as its precondition. I agree. On maturity, we affirm our original cultural membership or affiliate with a different culture as a matter of implicit choice, ideally grounded in critical reflection. Liberals should base the protection of cultures or of particular cultural practices directly on the value of individual autonomy, bypassing the intermediate value of cultural membership as a context of choice. If a disparity is thought unjust in the legal status accorded to some practices as compared with others, for example, “then it is not in virtue of mere disparity, nor because people are being denied some abstract access to a culture as a context of choice. It is that citizens are being denied . . . a particular and preferred option that is entirely consonant with liberal values” (237). Similarly, we may accord self-government rights to nonliberal groups, but for liberal reasons. In Levey’s view, groups that steadfastly maintain their societal culture, territorial concentration, and institutional embodiment in social institutions display a degree of solidarity, sincerity, and “moral seriousness” such that they should be accorded at least a prima facie right to political autonomy. Yet the proper justification for such policies is not
a right to respect for cultural membership as a context of choice but a right to autonomy (239–240).

If cultural membership is an expression of autonomy, however, we must be wary of equating with autonomy every expression of this membership. Levey on the one hand justifies the costs of special provisions for cultural minorities, such as the provision of court interpreters for persons who do not speak English, on grounds that without the ability to communicate, individuals cannot be “critically reflective and self-directive” or act as autonomous agents (234). In other cases, respect for autonomy requires that we not facilitate individual preferences that seem unauthentic, irrational, or threatening to the autonomy of oneself or others. Thus, “Viewing cultural practices as the exercise of individual autonomy need not imply that every personal choice, idiosyncratic whim, or experiment in individuality should be accommodated, if not supported, by government” (235). On the other hand, Levey believes that self-governing, nonliberal minorities can make at least an initial claim against the imposition of liberal values, regardless of whether their members are “critically reflective and self-directive” in the way they conduct their lives, individually and collectively. In other words, even if we interpret cultural membership as an expression of autonomy rather than as its precondition, this does not mean that autonomy itself has no preconditions, but only that cultural membership in one’s culture of origin is not one of them. Membership in some culture is a precondition of any sort of human agency, but membership in any particular culture on maturity is an expression of autonomy. My focus, then, is on the nature of preconditions that maximize the likelihood that cultural membership will represent an expression of autonomy.

THE COMMON MORAL STANDPOINT

For Kukathas, the dilemma posed by conflict between the larger political community and its subcultures is a function of a particular conception of political community. Any community “is essentially an association of individuals who share an understanding of what is public and what is private within that association”; a political community simply shares this understanding with respect to matters within that polity. Because any community is also a partial association, or only one among several to which individuals have ties, liberals are mistaken when they assume the centrality of the political community, vesting in it the “ultimate authority [in] determining what practices or ways of life are permissible” (96). The question of the limits of cultural tolerance arises, then, only because liberals inadvisedly resemble communitarians in presupposing
the existence of a common moral standpoint. "Toleration . . . arises as an issue . . . because of the possibility of dissent—whether by word or by practice—from the values implicit in that common standpoint." 36

For Kukathas, the state differs from its subcultures or subcommunities in that it, and by implication only it, is an association of diverse associations, or "an area of convergence of different moral practices" (84). Thus, although it is acceptable for illiberal subgroups themselves to prevent the formation of liberal subgroups within their own midsts, it is morally illegitimate for liberals to prevent the formation of illiberal subgroups within the state (93–99). "The state is a political settlement which encompasses these diverse associations, but it is not their creator or shaper" (94). Having no legitimate claims in its own right, it lacks the authority to impose norms, liberal or not, on its members as subcommunities do on theirs. The efforts of theorists like Kymlicka to promote meaningful individual choice threaten the cultural integrity and identity of subcultures that do not affirm the value of individual autonomy and choice. 37

Kymlicka responds, however, that identifying which sorts of minority claims are consistent with liberal principles differs from imposing those principles. 38 He perceives in fact an asymmetry between contemporary liberals’ growing reluctance to impose liberalism outside the nation-state and their greater willingness to impose it on national minorities within the state. Negotiation and agreement should replace coercive interference, to the point that this might in specific circumstances exempt a national minority from the applications of federal bills of rights or judicial review. Although liberals should speak out against injustice and offer incentives for reform, "liberals in the majority group have to learn to live with this, just as they must live with illiberal laws in other countries." 39 Thus in practice, Kukathas and Kymlicka alike share a reluctance to allow the national political community to interfere with the practices of cultural minorities. Although Kymlicka suggests that intervention is justified by systematic violations of human rights in slavery or genocide (169), the actual point of intervention is a practical and empirical matter, dependent on the severity of these violations, the consensus within the relevant community, the ability of dissenters to leave, and the existence of historical agreements. Both men imply that any change should emanate from the minority culture itself. The difference is that whereas Kymlicka would empower individuals to influence cultural character from the bottom up, within a secure cultural structure, Kukathas wants cultural traditions or authorities to have primacy and to sanction any change from the top down, so that individual members who want change would leave rather than changing the culture from within. And even Kukathas suggests that "the acceptability of cultural norms and practices
depends in part on the degree to which the cultural community is independent of the larger society.”

As the legal expression of a particular cultural structure, however, the liberal polity cannot and should not, I believe, avoid the instantiation of a common moral standpoint. Michael Walzer reminds us that “toleration is not absolute even in international society,” noting the common albeit uneven practice of humanitarian intervention.

Moreover, the settlement governing the nature of political society to which Kukathas refers is not a finished product of a moment in time but instead emerges through ongoing negotiation that represents “the gradual shaping of a common . . . political life” (108). As new groups arrive or become visible, the settlement is renegotiated on new terms of inclusion or exclusion, depending on specific social practices.

Political society may be an association of diverse associations, but at any given point, we can still identify an established moral standpoint, even though this changes over time. If, as Kukathas argues, all communities, including the political one, are partial associations whose members share an understanding of what is public and what is private within their particular association, different political societies will draw the distinction in different places. And the same political society will mark the distinction differently at different points in its history. Domestic violence between spouses or that of parents against children, for example, was in Western countries once deemed a private matter; change in the status of marital rape provides another instance. Therefore, even a community by Kukathas’s definition is open to the possibility and probability of displaying a common moral standpoint.

If all communities share some understanding that emerges and is negotiated and renegotiated over time, no external rule exists that dictates what this understanding should look like. Whether the public realm simply represents a convergence of different moral practices, as Kukathas advocates, or instead embodies a common moral standpoint that regulates some of the practices of subcultures makes no difference. Even a collective decision to treat the public realm as an area of convergence that allows the widest possible scope for varied cultural practices still emerges from a common moral standpoint at that time in that polity. It is not feasible, then, for a polity to reject the notion of a common standpoint altogether. It can only reject certain kinds of standpoints, those that conflict with the understanding currently shared. To put the matter differently, if we agree that the public realm shall operate as an area of convergence for different moral practices, we are affirming these practices, not directly, but by affirming a distinct conceptualization of what the public realm should look like, whatever the specific conceptions of morality that various groups bring to
this convergence. We are thus affirming a metatheory of the public realm that is itself a moral standpoint. Although the polity may decide to practice laissez-faire, nevertheless it is neither culturally nor morally neutral.

AUTONOMY AND CULTURAL STRUCTURE

Given the ineluctability of nonneutrality, then, how do we maximize the likelihood that cultural membership will represent an expression of autonomy, resulting from critical reflection rather than from unthinking affirmation? Although Kymlicka wants to protect cultural structures as preconditions of autonomy, his accompanying desire for internal guarantees to protect individual dissenters, and implicitly to function as expressions of autonomy, seems incompatible with the group-differentiated rights that he advocates. My own commitment to promoting conditions for the development of the capacity for autonomy impels me to opt for individual expression over cultural protection when these values conflict, as I believe they often do. Here I shall explain why.

John Rawls’s political conception of the person describes citizens as capable of taking responsibility for their ends, including tastes and preferences, and of adjusting them in the light of realistically formed expectations, whether or not these tastes and preferences have arisen from our actual choices. Thus, “Given their capacity to assume responsibility for their ends, we do not view citizens as passive carriers of desires. That capacity is part of the moral power to form, to revise, and rationally to pursue a conception of the good.” Yet Rawls also distinguishes between citizens’ public or institutional identity, which remains the same even when they revise their determinate conceptions of the good, and their moral or noninstitutional identity, according to which “they may regard it as simply unthinkable to view themselves apart from certain religious, philosophical, and moral convictions, or from certain enduring attachments and loyalties” (31). This distinction parallels that between the political and ethical values of autonomy, whereby citizens may simultaneously realize autonomy as a political value, by affirming the principles of justice and the values these protect, but reject autonomy as a comprehensive and ethical value, or as a regulative ideal to which all other values are subordinate even in private life (77–78, 98–99, 199). Autonomy, then, describes our public but not our non-public identity.

As Kymlicka points out, however, Rawls implicitly assumes that our religious, philosophical, and moral convictions may constitute our identities to such a degree that we cannot stand back to question, examine, and revise projects and goals that are informed by these convictions. Although Rawls makes
this assumption to avoid imposing a robust conception of autonomy on those who do not value the capacity to revise their conceptions of the good, argues Kymlicka, Rawls’s description of nonpublic identity is actually a communitarian one, and “Rawls has not explained why people who are communitarians in private life should be liberals in political life.”

Those who view their commitments as constitutive of the self may experience difficulty in divesting themselves of these commitments for purposes of exercising political judgment. And to the extent that they are successful, this habit may permeate their private identities and cause them to value autonomy more comprehensively than their expressed commitments allow. “Rawls is mistaken, therefore, to suppose that he can avoid appealing to the general value of individual autonomy without undermining his argument for the priority of civil rights. The mere fact of *social plurality*, disconnected from any assumption of *individual autonomy*, cannot by itself defend the full range of liberal freedoms” (163).

In short, Rawls cannot simultaneously defend both the nonrevisability of nonpublic commitments and also the political value of autonomy. Moreover, this contradiction bears on the issue of the extent to which we are responsible for our desires and preferences. If our religious, philosophical, and moral convictions are constitutive of our nonpublic identities to the extent that we cannot question, examine, and revise these convictions, how then can we take responsibility for them? Yet Rawls states not only that we are not passive carriers of desires but also that we are responsible for our tastes and preferences *whether or not* these emanate from choices we have actually made. If this is true, and I believe that it is true both ontologically and also as a requirement of successful social cooperation, then we must regard *all* our moral commitments as revisable.

Although Kymlicka faults Rawls for limiting the potential revisability of our moral commitments in order to limit the reach of autonomy and thereby to broaden the reach of his overlapping consensus, Kymlicka himself, however, implies that cultural membership is a nonrevisable commitment, albeit for different reasons. As we have seen, Kymlicka would grant unique protection to those who maintain their allegiance to their culture of origin, even when such cultures do not encourage or positively discourage their members from questioning, examining, and revising their projects and goals. On my own understanding of the capacity for autonomy, it is not mandatory that individuals actually revise these projects and goals. Although the exercise of autonomy involves questioning and examining them, this examination may lead one either to affirm them or to revise current commitments and to make new ones. What is crucial is the capacity for and the exercise of rational deliberation and criti-
cal reflection, whatever the outcome of this process. Therefore, it is not problematic in itself for me that Kymlicka favors groups that are typically cultures of origin over groups that are chosen cultures. Large numbers of individuals remaining in their cultures of origin, after all, may well have deliberated about and reflected upon their allegiances. But because often we can only judge the autonomy of preferences by the history of preference formation, the degree to which a group or subculture encourages rational deliberation and critical reflection is at least a necessary if not a sufficient indicator of the extent to which its members are acting autonomously.

Other aspects of Kymlicka’s account, however, are in fact problematic in my view. First, cultures or groups that do not encourage or that actively discourage critical reflection are more likely to be cultures of origin than cultures that comprise many new adherents or devotees, the point made by Levey. After all, the latter type of culture is by definition constituted by those who did question, examine, and actually revise their previous commitments. And the former sort of culture is a candidate, on Kymlicka’s interpretation, for rights that enable it to maintain its distinctiveness, perhaps rendering even more difficult its members’ efforts to engage in critical reflection. But Kymlicka supports these rights because he views cultures of origin as contexts of choice that provide a range of meaningful options and sources of beliefs about value, whereas cultures of choice apparently either do not perform these functions or do not require this protection. Defenders of cultural membership like Kukathas and Tamir avoid this distinction and its attendant difficulties, Kukathas because he eschews cultural rights altogether, and Tamir because she would extend them to members of any group with minority status. But by valorizing the protection of cultures of origin over subsequently chosen ones, Kymlicka suggests that they play a unique role. Although he never explicitly suggests that our cultural commitments are nonrevisable, there is something about our cultures of origin and their effects on us that merit special protection. “Someone’s upbringing isn’t something that can just be erased; it is, and will remain, a constitutive part of who that person is. Cultural membership affects our very sense of personal identity and capacity.”

Second, I believe that any given culture can function as a context of choice for its members, providing both a range of meaningful options for choice and a source of beliefs about value. Kymlicka is right to assert that upbringing is a constitutive part of our identity; our experiences during our formative years mark us in undeniable fashion. But if we opt to leave our original culture to associate ourselves with a different culture, does not this new culture then become for us our new context of choice, providing perhaps a different range
of options and a source of different beliefs about value? And together do these not provide a different, but still essential, sense of identity and belonging? I would answer both of these questions in the affirmative. If, as Kymlicka declares, “nothing is ‘set for us,’ nothing is authoritative before our judgment of its value” (51), cultures of origin and cultures of choice should be equally central to our identities.

Our alternatives are initially those offered to us within the context of our culture of origin, both the particular options among which we may choose, and also the amalgam of cultural values that we utilize to confirm the worth of our own choices. But in a different culture, one of our own choosing, the alternatives found there still function as a context for future examination, questioning, and revision of our current projects and goals, just as the alternatives within our culture of origin once served. Tamir suggests that the contextual individual can autonomously choose his or her ends and affiliations because he or she “is situated in a particular social and cultural environment that offers . . . evaluative criteria.” But the individual is always situated in some cultural environment, whether one of origin or one of subsequent choice, and either offers these evaluative criteria. Or, put differently, to the extent that cultural membership may be regarded as a precondition of autonomy, everyone is culturally situated, whether by origin or by choice, and therefore the claim that cultural membership requires protection is generalizable enough to appear trivial.

Third, despite his critique of the communitarianism he perceives in Rawls’s account of the political value of autonomy, Kymlicka’s own conception of cultural membership as a precondition of autonomy is itself grounded in some communitarian assumptions, suggests Don Lenihan. Kymlicka hypothetically asks, “Why not let minority cultural communities disintegrate, and assist those who suffer that misfortune to assimilate to another culture?” But because of the ostensible uniqueness of one’s culture of origin in identity formation, he concludes, “respecting people’s own cultural membership and facilitating their transition to another culture are not equally legitimate options” (176). On this argument, notes Lenihan, “Then any cultural group which wants to make a claim to special protection (rights) against assimilation by another group must demonstrate that the move will better promote the well-being of its members than assimilation.” But this conclusion is welfare-based rather than autonomy-based and contradicts Kymlicka’s general intuition that we must ourselves endorse the values that ground our lives, whatever others might believe, if we are to lead what are good lives for us.

Finally, Kymlicka’s privileging of one’s culture of origin blurs the distinction he wants to make between cultural structure, which he would protect as a
context of choice, and cultural character, which he endorses not as defined by tradition or authority but only by its members who should be free to advocate change. If cultures of origin play a unique role, then in theory they should be maintained in their original character for paternalistic reasons against any impetus to change, even if this comes from inside the culture. “For his argument rests squarely on the claim that the character of cultural communities has a unique moral significance which political institutions and practices must respect. But this is precisely what the character/context distinction seemed to deny” (416).

Once again, his claim to special significance for cultures of origin emphasizes their constitutive role in individual identity formation, but without showing how they function as preconditions of autonomy in ways that chosen cultures cannot. As Allen Buchanan suggests, “An appreciation of the value of cultural membership cannot by itself . . . support a right to the continued existence of any particular culture. What is important is that an individual be able to belong to a culture, some culture or other, not that he be able to belong, indefinitely, to any particular culture.”

If cultural membership provides a context of choice, including both a range of options and a set of evaluative criteria, the choices offered within our specific cultural situation, however, are opportunities for the expression of autonomy. Buchanan suggests that a culture’s function as a context of choice is both to limit the range of alternatives to a manageable set and to offer continuity and structure for otherwise fragmented goals (356). Thus, it provides a framework within which choices are made as a precondition of agency; and certain kinds of choices, those grounded in rational deliberation and critical reflection, will constitute an expression of autonomy. But the presence of a range of options and of a set of evaluative criteria, although necessary conditions of human agency, appear in all cultures, not only in our cultures of origin. Moreover, cultures are not necessarily separate, distinct, or internally homogenized. All traditions are defined and characterized by conflict; their development presents us with no conclusion “which is not open to further revision, elaboration, emendation, or refutation.”

If cultural membership is to function as a precondition or as an expression of autonomy, this is partly because of the diversity that it presents, both within and among cultures.

DIVERSITY AND CULTURAL STRUCTURE

Both equality of access to one’s original culture as a context of choice and historical agreements generate justifications for the protection of cultural rights, according to Kymlicka. The promotion of cultural diversity, however, is
overrated as a justification in his view. Because he would protect cultures of origin as contexts of choice for their existing members, diversity is valuable for those within such a culture only insofar as public policy protects their own cultural membership. He implicitly views national minorities as instances of separate cultures within the national state rather than as cultural subdivisions, as it were, of the larger culture. Whereas diversity within a culture ostensibly creates more options and expands the range of possible choices, for Kymlicka, “Indeed, measures to protect national minorities may actually reduce diversity within the majority culture, compared with a situation where minorities, unable to maintain their own societal culture, are forced to integrate and add their distinctive contribution to the diversity of the mainstream culture.”

The cost to the majority culture of granting group-differentiated rights to national minorities may be high, admits Kymlicka, compared to that of more varied immigration or of protection for the specific cultural practices of ethnic groups. Moreover, if our goal is diversity within the larger culture, “Why then does the value of diversity not also justify imposing a duty on members of the minority to maintain their traditional culture? If the benefits of cultural diversity to the larger society can justify restricting individual liberties or opportunities, why does it matter whether those restrictions are imposed on people inside or outside the group?” Although he does not say so explicitly, from his viewpoint the argument from diversity proves both too little and too much. It proves too little because it does not show us why group-differentiated rights are preferable to other forms of diversity. It proves too much because it cannot maintain his distinction between cultural structures, which should be preserved, and cultural character, which will persist if and only if the culture’s members desire it. If the members of cultural minorities should decide for themselves what their membership means and what aspects of their cultures are worth preserving, which I believe is correct, this point counts both against internal cultural tradition and authority and also against majority attempts to dictate cultural character. The value of cultural membership as Kymlicka interprets it, however, appears to militate in favor of cultural preservation at all costs.

I have been arguing that membership in some culture is a precondition of agency and that the exercise of cultural membership in a particular culture, whether a culture of origin or one subsequently chosen, is an expression of autonomy. But this presents us with a dilemma. If as members of a culture we engage in rational deliberation and critical reflection, and choose to change our culture in ways that narrow the range of options among which future choices may be made, we are sacrificing the preservation of diversity in the future to the present value of autonomy. If, on the other hand, we opt for the preserva-
CULTURAL PARTICULARISM IN THE LIBERAL POLITY

97

tion of the greatest possible range of options for their own sake, we are sacrific­ing the present value of the expression of autonomy to the future value of diversity. Kymlicka wants to prevent cultural disintegration and assimilation from without because of the uniquely constitutive function performed by cultures of origin, and he wants to allow changes in cultural character from within on grounds of self-determination. But he defends neither policy for the sake of diversity, in the sense of preserving the greatest possible range of choice. If a cultural context provides a range of options for choice and a set of evaluative criteria as a basis for making those choices, however, might a broader range of options not be preferable to a narrower one? And might a larger set of evaluative criteria not be more valuable than a smaller one? If traditions are characterized by debate and conflict, and if they inevitably influence each other, then cultural protection cannot rely on a defense from diversity as compartmentalization, but it cannot do so for reasons different from those Kymlicka gives.

There is a broader reason for protecting cultural structures that multiply distinct opportunities and choices. The absence of such protection may lead to the obliteration of an entire way of life for those in the future who may find value in it, regardless of the value placed on it at present. Allowing matters to proceed unimpeded is not, Ronald Dworkin suggests, “neutral amongst competing ideas of the good life, but in fact destructive of the very possibility of some of those.” But on this interpretation, allowing either cultural structure to disintegrate or cultural character to change will destroy some ways of life for individuals who might find them good. Moreover, even if cultural structures are insulated and seemingly closed to outside influences, the very fact that they continue thus reflects the larger society’s willingness to leave them alone. Just as the individual is dependent on social and cultural structures for central components of identity, cultures and national communities are also dependent on wider political or international structures that indirectly support them.

But if cultures are in fact interdependent, perhaps the larger culture is really our context of choice, containing a range of options and a set of evaluative criteria, including all the options and criteria of the particular subcultures it comprises, plus those that are generated by our combining options and criteria from different cultures as we attempt to live our lives from the inside, and to examine, question, and possibly revise our current projects and goals. If cultures persist as sources of future options and of evaluative criteria for future decision-making, this is not as self-contained entities, but as components of a larger, more cosmopolitan culture. Individuals have genuine choice and evaluative capacity, contends Jeremy Waldron, only when they are not insulated from different practices from those to which they are accustomed. “Either people learn
about value from the dynamics of their culture and their interactions with others or their culture can operate for them at most as a museum display on which they pride themselves" (109).

Kymlicka responds directly that although options may be derived from varied sources, this fact does not obviate the value of our belonging to separate societal cultures. Indigenous cultures understand their identities as dynamic, not static; they "demand the right to decide for themselves what aspects of the outside world they will incorporate into their cultures." But to what extent may we change the character or content of our culture without also altering its structure? Michael Walzer writes, for example, that the same goods have different meanings in different societies. Many governments understand that they are entrusted with their citizens' welfare, but they do not necessarily provide the same goods. In medieval Europe, the cure of bodies was private; the cure of souls was public. "Among medieval Christians," he writes, "eternity was a socially recognized need; and every effort was made to see that it was widely and equally distributed. . . . Among modern citizens, longevity is a socially recognized need; and increasingly every effort is made to see that it is widely and equally distributed." Both of these sorts of "cures" have arisen in what we call Western culture. But is the shift in emphasis from soul to body merely one of content and character? Or, because the change was preceded by the disestablishment of many state churches and by the secularization of the culture, is the shift also one of structure? In the end, although I sympathize with the effort to distinguish between the structure and character of a culture, I do not think the distinction can bear the weight that Kymlicka desires. If members of cultures may instantiate change while remaining in their cultures of origin, this is likely to change the cultural structure as well as its character. If, on the other hand, the members of a culture wish to preserve its structure, they will have to accord weight to cultural tradition or authority that is likely to prevent not only structural change but also alterations in content and character.

FREEDOM OF ASSOCIATION

The most difficult question concerning the cultural membership of national minorities is that of who within a culture has the authority to determine the meaning of that culture as a context of choice. This is the major point of disagreement between Kymlicka, for whom the right to determine for oneself the meaning of cultural membership is an individual right, and Kukathas, for whom the culture as a voluntary association determines this meaning without
infringing on individual rights as long as individual members acquiesce and are free to leave if they do not. Their specific disagreement centers on whether members of indigenous cultures like that of the Pueblo Indians should be able to practice Christianity while remaining in the culture, of which the ancestral religion is considered an integral part.

For Kymlicka, individual religious liberty is paramount and does not interfere with the lives of any other members of the Pueblo reservation. Moreover, we could argue that allowing religious liberty offers a greater range of options and a larger set of evaluative criteria to those within the Pueblo culture. For Kukathas, however, introducing the guarantee of meaningful individual choice into a culture that does not prize this value undermines the culture itself, even if the guarantee occurs under the rubric of a change in character. “If the change in character takes place as a result of dissident members of the minority community invoking ‘rights’ granted them by the dominant culture, then the change constitutes not a response to the new circumstances confronting it but a change enforced by the wider society interfering in its internal practices.” More generally, whereas for Kymlicka autonomy has independent value that may be served by policies of toleration, for Kukathas it is toleration itself that has independent value. In fact, we could argue that toleration of the practices of cultures that do not value meaningful individual choice increases diversity among types of cultures, again offering a greater range of options and a larger set of evaluative criteria, if not to members, then to those in the larger or dominant culture who draw on the contributions of other cultures or who simply value diversity.

The crucial difference between these two interpretations appears to turn on the question of how we decide when freedom exists in a society. For Kukathas, the amount of freedom is not based on the sum of the freedoms in all associations, on the number of associations that value freedom, on the number of people in freedom-valuing associations, or on the individual freedom to enter associations of one’s choice. Some associations are devoted to helping people manipulate their first-order preferences; as such, Christian organizations, for example, should be able to exclude militant atheists. Some communities into which people are born do not themselves prize freedom, but “it is the freedom to accept or reject the restriction on one’s freedom that is important.” Kukathas therefore concludes that freedom is grounded on the liberty to leave associations, especially because freedom of exit implies freedom to form new associations. Despite exit costs, which may be high, these costs do not obviate the fact that one is still free to leave. Thus Kukathas does not advocate the
group-differentiated rights supported by Kymlicka: members of cultures are free to bear the costs of remaining within them, just as they are free to leave, without special consideration.

Directly addressing the role of socialization in preference formation through the hypothetical Muslim wife of a Malay fisherman, Kukathas asserts that she is free neither because she is content with her lot nor because she has deliberately or reflectively chosen her life. Rather, “Fatima is free because she may live a life she has not rejected and is not forced to live a life she cannot accept. She is . . . free because she enjoys a certain ‘inner freedom’; however, that inner freedom is not autonomy or self-direction. It is liberty of conscience” (15), which is “enjoyed when an individual can indeed live his life under the guidance of conscience (which identifies right and wrong conduct) and is not impeded by others from doing so” (16). Liberty of conscience requires freedom of association, but because some may choose not to associate with us, freedom of association must be the freedom to dissociate on the basis of conscience. Moreover, because this freedom requires both substantial freedom from intervention in a group’s practices and an open external environment or wider society that is receptive to exit, freedom of association is therefore incompatible with a subsuming legal order that regulates associations according to centralized moral standards. Because this wider society must uphold freedom of association and therefore probably other liberal freedoms as well, “this suggests that it may be necessary that the wider society itself be one that could be described as embodying a liberal political culture.”

Kukathas, then, defends cultural membership by protecting members’ rights to adhere to particular practices, thereby maintaining cultural character without the formal recognition of cultural structure. This formulation avoids some of the difficulties that Kymlicka faces, most notably with the claim that membership in one’s culture of origin is always unchosen in ways that other memberships are not, and with his attempt to distinguish neatly between cultural structure and cultural character. Yet Kukathas’s formulation faces difficulties of its own. First, as we have seen, he believes that the larger political society should be an association of diverse associations without its own common moral standpoint and thus one in which members of these associations can exercise freedom to exit. Given his belief, however, that different ways of life should be able to coexist even if some do not value equality and autonomy, it seems he is allowing the large society to provide the slack to individuals not provided by their particular cultures. And if the larger political society is, as he suggests, a liberal political culture, it cannot be an association without a common moral standpoint. It provides equality and the scope for autonomy not afforded by
more particularistic cultures, even if this is by default. This logic exemplifies Waldron's point that particular cultures are dependent upon and are sustained by the wider community. In Kukathas's case, it is the existence of a wider community that makes meaningful the opportunity to exit.

Second, serious concerns attend Kukathas's admirably straightforward argument that freedom means the freedom to dissociate from those with whom one cannot in good conscience agree. Associations are self-policing because intolerable practices will cause their members to leave. Those who remain, therefore, have acquiesced and are free. A. John Simmons has suggested, however, that with respect to the principle of fair play, acceptance of "open" benefits that are not readily avoidable, like regular police patrols if one lives in a neighborhood, cannot generate the same obligation as benefits that are merely "readily available," such as special police protection I might receive with a restraining order. We should not be required to alter our lifestyles to avoid benefits that generate obligations we do not want to honor. But if we cannot be thought to acquiesce in the receipt of benefits that are avoidable only through extraordinary effort, why must we be assumed to acquiesce in the assumption of burdens that may also be avoidable only with similar difficulty? Leslie Green notes that although John Stuart Mill tolerates polygamy, in the sense of refusing to endorse its extirpation because exit is possible, he is not therefore endorsing the practice itself. "But it is no part of a liberal theory that justice can be secured merely by providing an exit. If a certain social structure is unjust, it cannot become just merely by becoming avoidable." Although Kukathas would respond that I am mistakenly assuming the existence of a common moral standpoint that is independent of those held by the individuals who acquiesce in the practices of particular cultures, I have explained why I believe that a larger political society without such a standpoint is neither possible nor desirable.

A third difficulty surfaces with respect to the rights of minority cultures, which, although appearing as an objection to Kymlicka's formulation, also counts against that of Kukathas. Kymlicka justifies formal rights for minority cultures because, lacking relative power and resources, they can less readily than the majority defend their unchosen but valued contexts of choice against outside incursions. But although cultural rights may protect minority cultures against the majority, they do not protect internal minorities, who may be as powerless against protected minorities as the latter are against the majority. Protected minorities may argue their own weakness in comparison to the majority but may still compel internal social conformity once they have the institutionalized power to maintain their distinctiveness. As Green concludes, a liberal regime is then allowing treatment of internal minorities that it would
not countenance on the part of the larger community (263). On the other hand, if internal minorities are then entitled to rights against larger, protected minorities, not only may the character of the latter protected cultures disintegrate but also the cultural structure itself, the context of choice that is the initial impetus behind cultural rights. Kukathas would respond that this dilemma is a function of defending cultural membership through the protection of cultural structure, rather than by protecting members’ rights to adhere to practices without formal recognition of cultural structure. The solution would lie in freedom of association as the right to exit from associations by which one feels oppressed.

But this solution simply re-creates on a larger scale my initial difficulties with the assumption that legitimacy is defined by acquiescence. Internal minorities may accept or acquiesce in the lives they lead, but they know neither their potential alternatives nor what they might desire if they did possess this knowledge. Their context of choice is limited because their range of options is narrow and their set of evaluative criteria is small, even assuming no conscious attempts to limit people’s knowledge or to engage in any sort of psychological coercion. Kukathas states that if the liberty to exit is to have meaning, the society into which group members exit must have many of the characteristics of a liberal political culture. I suggest that if liberty to remain in one’s culture of origin is to have meaning, it must afford an awareness to its members that there are other ways of life that emphasize other values. Neither Kymlicka nor Kukathas fully appreciates the position of internal minorities or dissenters, Kymlicka because he limits formal legal protection to certain minorities, and Kukathas because he would protect no minorities as a matter of public policy but would anticipate self-protection through the liberty to exit. As Green states, “Yet without respect for internal minorities, a liberal society risks becoming a mosaic of tyrannies; colourful, perhaps, but hardly free” (270).

AUTONOMY-BASED LIBERALISM

These considerations ultimately return us to the level of the individual, because it is the individual who expresses cultural membership by remaining in a culture of origin, by leaving it, and/or by joining with others in forming or maintaining other interpretations of their original cultures by choice. The capacity for autonomy requires that we experience second-order desires and volitions, or that we prefer to have certain desires over others and that we also care what these desires are. Only thus do we identify with desires in a way that gives continuity to our lives and allows us to live life from the inside, and only thus can we also draw back and imagine ourselves with different projects and
goals, enabling ourselves to question, examine, and possibly to revise them. As a precondition of autonomy, the possession of a context of choice containing a greater range of options and a larger set of evaluative criteria is a necessary condition of participation in cultural membership that will then be an expression of autonomy. In my view, cultural membership as an expression of autonomy implies the presence of rational deliberation, critical reflection, and by implication the second-order desires and volitions that activate deliberation and reflection.

Does this mean, then, that liberals should not permit or facilitate ways of life that do not meet this demanding sort of standard and that such ways of life are not in fact expressions of autonomy? Those who do not engage in critical reflection still possess freedom, on Kukathas's terms; his hypothetical fisherman's wife has not autonomously chosen or endorsed her life but is free because she has not rejected her way of life and therefore must be viewed as accepting it. As Kymlicka notes, however, someone who lacks education and opportunities to interact with those of other cultures "does not have a substantial freedom to leave because she lacks the preconditions for making a meaningful choice." Even if the lack of education and interaction is not a matter of policy, the end result is the same. Perhaps we can say that for some, cultural membership is an expression of autonomy in its full-blooded sense. For others, it expresses autonomy in a very thin sense, in that we assume either that people's first-order desires are congruent with what their second-order desires would be if they were conscious of them, or that perhaps they do experience second-order desires in spite of what appears to constitute an absence of preconditions.

Tamir makes a helpful distinction between rights-based liberalism, which focuses on individual rights "without conceiving of those rights as grounded in autonomy-entitlement and choice prerogatives," and autonomy-based liberalism, which "tolerates and respects only autonomy-supporting cultures—namely, liberal ones." Autonomy-based liberalism values communities only insofar as they may contribute to the development of their members' capacities for autonomy, it encourages the assimilation of illiberal cultures, and "it endorses toleration towards illiberal cultures only as a means for a slow, yet permanent, liberalisation of such cultures." Rights-based liberalism, however, "places at its core a commitment to equal concern and respect for individuals, their preferences and interests, regardless of the way these were formed." Thus it not only tolerates but also respects "decent illiberal cultures which do not foster the ideal of personal autonomy but which respect their members and allow them some means of participation and social influence." Illiberal yet "reasonable" communities may not provide or may even prevent the development of the capacity for
autonomous lives yet still may be valued by their members as communities worth inhabiting. Even rights-based liberals can arouse resentment in their interactions with illiberal cultures, because those who fear assimilation have more to lose than liberals do (170). Although she does not recommend a retreat to cultural relativism, Tamir concludes “that liberals should limit both their demands towards and their expectations of illiberal cultures. . . . The most that can be achieved is an untidy compromise which all parties resent to some extent. There is then no right solution, but a set of reasonable ones” (171).

Tamir’s approach appears to be a compromise. She neither respects all cultures equally, nor does she respect only those that encourage their members to live autonomous lives. As long as a culture admits “a measure of liberty of conscience and freedom of thought,” or allows its members “some means of participation and social influence” (167–168), it is a decent and reasonable community. Equal concern and respect dictate respect for individuals’ efforts to live according to their own traditions and values when these do not harm others. But how much liberty of conscience, freedom of thought, participation, and social influence is enough for us to conclude that the community is decent or reasonable? Moreover, a liberal polity, unlike an illiberal one, has principled reasons based on liberty and toleration to refrain from enforcing its own animating values on its subcultures. Thus, liberal states cannot be as thoroughgoing in expressing their collective values in their national life as can illiberal ones. Finally, Tamir’s compromise in an important way does not really split the difference, so to speak. Whatever meaning we assign, after debate, to “reasonable” and “decent” as descriptions of subcultures whose practices we will accept or respect, we are endorsing these practices as part of our common or established moral standpoint as a polity. This does not mean that compromise is never in order. It does mean that we must be clear about what we are doing, which is compromising the value of the development of the capacity for autonomy for the sake of other values.

The crux of the dilemma is that on the one hand, a liberal polity must be tolerant of diversity, without which the larger culture will be homogeneous and without a range of options and evaluative criteria. On the other hand, in order to make full use of the available options and criteria, individuals must be able to reflect critically on the nature of the life that is good for them if they are to endorse the lives that they live, by imagining themselves with different projects and goals and by either reaffirming their current lives or revising them so that they can endorse them anew. In other words, autonomy is worth more in a context of choice that offers diversity, but diversity is also worth more when individuals possess the capacity for autonomy. Perhaps we may think of auton-
omy as existing along a continuum, which obviates the necessity of classifying cultures and individuals as completely autonomous or nonautonomous. David Johnston distinguishes three kinds of autonomy in this context. First, autonomy may be understood simply as agency, or the capacity to act on projects and values independent of or unrelated to our own experiences. An agent might save another from drowning not merely from the instinctive sympathy of a sentient being but also from the abstract value put upon human life. Second, moral autonomy implies the capability of having both a conception of the good and also a sense of justice. Just as we have projects and values that we want to realize, we also recognize other individuals as agents with claims deserving of recognition and respect. This recognition requires self-limitation on one’s own claims if others are also to succeed in their pursuits.65

Finally, personal autonomy implies self-authorship, in that the individual subjects projects and values to critical appraisal and fashions them into a way of life that functions as a coherent whole. One attends, that is, to second-order desires as well as first-order desires. Perfectionist liberal theories, unlike rights-based theories, require these three types of autonomy for a good society. Although the attribute of personal autonomy has great value, Johnston nevertheless concludes that unlike agency and moral autonomy, personal autonomy does not appear to be “an essential ingredient in a good human life in association with others” (91). For Johnston, individual attempts to create meaningful and worthwhile lives by pursuing projects and adhering to values are much more central to human dignity than is the process of critical appraisal in the choice of projects and values (87–99). “To dismiss the values of a person who does not wish to be personally autonomous would be to fail to take seriously the project for himself the person wishes to pursue” (94). Critical self-appraisal does not necessarily help us to discern some inherent value in things, to ensure improvement or human progress in general, or even to develop worthier projects and goals than otherwise. Personhood most plausibly “consists of the imaginative capacity to formulate projects and values,” which may or may not require reflective self-evaluation (93). Social measures to promote personal autonomy can lead, if not to despotic paternalism, at least to disorientation and the disintegration of one’s existing values, which in turn may undermine rather than support effective agency.

Yet simultaneously, Johnston suggests “on balance, that some degree of ability to appraise or reappraise one’s projects and values critically is essential to a good life for human beings in association with others.” Not only will critical self-appraisal help us to formulate the projects and values that are suitable for us, but also it will help us restrain our own claims and recognize others’ projects
and values, thereby contributing to our effective sense of justice. In fact, “In order to be morally autonomous, a person must possess and use, to some degree, the skills that are constitutive of personal autonomy” (97), and therefore a society should foster these insofar as they contribute to reflective agency (98). This process parallels that by which the effective integration and deployment of first-order desires is enhanced by our development of and reflection on second-order desires.

I endorse Johnston’s intuition that some degree of critical self-appraisal is necessary for living a good life in association with others. But I experience the same difficulty with “some degree” that I do with Tamir’s endorsement of illiberal cultures that admit “a measure of liberty of conscience and freedom of thought” and that allow its members “some degree of participation and social influence.” How much? For Johnston, personal autonomy should be fostered insofar as these conditions contribute to effective agency. But how much is that? If effective agency means the imaginative capacity to formulate projects and values, then a greater degree of personal autonomy contributes more than a lesser degree, I should think, to the development of this imaginative capacity. A greater ability to engage in critical self-appraisal would produce a greater capability of conceiving and acting on projects and values unrelated to our own experiences. It should also aid us in formulating appropriate conceptions of the good and in recognizing and respecting others’ projects and values, thus contributing to our sense of justice. Overall, the capacity for personal autonomy contributes both to effective agency and to the moral autonomy integral to a life in association with others.

Writers like Kymlicka, Tamir, Kukathas, and Johnston wish to allow some slack for groups and individuals who do not value personal autonomy and self-appraisal. The views that we have considered with respect to cultural membership, however, in one way or another imply that a life grounded in rational deliberation and critical reflection is indeed superior to one that is not so grounded. Although Kymlicka, unlike me, views cultural membership as a precondition of autonomy rather than as its expression, his desire to protect cultures of origin is still based on the desire to protect choice. The protection of a context of choice does not guarantee critical reflection, but it opens up a space within which this activity may take place. Tamir’s formulation makes cultural membership both a precondition and an object of choice. Although her rights-based liberalism purports to ignore preference formation, she accords respect to illiberal cultures only if they meet certain conditions—conditions that just happen to foster personal autonomy, as in their allowing a modicum of freedom of thought. Moreover, she suggests a direct relationship, if not a guaran-
teed one, between the ability to lead a satisfying life and the ability to view oneself as an active member "of a worthy community." But judging the worthiness of one's community implies at least the possibility of critical reflection as one determines this worthiness. It implies the individual ability to step back from the community to make this judgment, and the possibility that under the evaluative criteria used, we might conclude that some communal practices are not worthy of what one expects from one's community. It admits, that is, the desirability of rational deliberation and critical reflection. As Levey notes, Tamir's "rights-based liberalism draws on the force of individual autonomy more than she realizes."

Even Kukathas, as we have seen, relies on the liberal culture of the larger society to influence nonliberal subcultures, both through typical interactions and through its provision of a place into which those exercising freedom of exit may enter. As Levey puts it, "Despite his account of liberal theory, Kukathas responds to the spectre of oppressive and unjust minority cultures by being only too prepared to let 'non-basic' liberal norms transform them" (8). In addition, freedom of exit is itself arguably a liberal norm that, unlike others, should in his view be forced on groups that do not voluntarily embrace it as the price of toleration. "Put simply, why is the right to choose to leave any less a liberal good (or any more a neutral framework) than is respecting the autonomy of the person?" Moreover, for aboriginal cultures the freedom to dissociate has historically been a function of the law imposed by European settlers, not of spontaneous generation.

Finally, freedom of exit itself is not only a liberal norm in the abstract, but it is also an option best appreciated in a context of critical reflection. That is, individuals who know they may leave may also come to understand their original cultural membership as a matter of choice and personal commitment, whether or not they actually do leave. Although Kukathas might respond that freedom of exit is then indeed sufficient protection for individuals against the tyranny of their cultures, I would argue that this freedom is necessary but not sufficient. Those for whom leaving does not appear as a viable option, to be embraced or rejected, as in the case of some battered wives, are also those insufficiently protected by the mere existence of this option. On the other hand, those for whom leaving is a viable option psychologically may engage in critical reflection and reflective self-evaluation as they consider their options, thus embracing characteristics of personal autonomy.

I believe, then, that cultural membership in some culture provides a context of choice, and as such it is a precondition of agency, in Johnston's sense, or of the imaginative capacity to formulate projects and values. Any culture provides
a range of options for choice and a set of evaluative criteria. In my opinion, a larger range and a broader set provide a richer and fuller context of choice. As individuals use these options and evaluative criteria to live their lives, their practice of cultural membership involves formulating appropriate conceptions of the good and recognizing and respecting others' projects and values. As such, this practice is an expression of moral autonomy. Finally, if they engage in critical reflection and rational deliberation to examine, question, and revise or reaffirm their projects and values, their cultural allegiances constitute an expression of personal autonomy. Cultural protections for national minorities may be justified in terms of particular practices, but only if this protection does not threaten the development of the capacity for personal autonomy.